



General Assembly

Distr.: General
27 February 2014

English only

Human Rights Council

Twenty-fifth session

Agenda item 3

**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by Jammu and Kashmir Council for Human Rights (JKCHR), a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[18 February 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.14-11460



* 1 4 1 1 4 6 0 *

Please recycle



Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

United Nations has remained deeply occupied in the Rights of the People of Jammu and Kashmir. On 20 January 1948 UN Security Council by its resolution S/654 established a Commission to investigate the facts pursuant to Article 34 of the Charter. The Commission performed functions "in regard to the situation in the Jammu and Kashmir State set out in the Letter dated 1 January 1948 from the Government of India and in regard to other situations set out in the Letter dated 15 January 1948 from the Government of Pakistan". A truce agreement was brokered between India and Pakistan in January 1949 and the fighting elements in the State were made subject of this truce agreement.

In 1965 large scale hostilities broke out between India and Pakistan along the Kashmir border. UN Security Council adopted four resolutions and demanded a cease fire and a withdrawal by the parties to the positions occupied by them before 5 August 1965 and called upon the Secretary General to provide all necessary assistance. To ensure supervision of the cease fire and the withdrawal of all armed personnel, the Security Council, in 1965 strengthened the already existing United Nations Military Observer Group in India and Pakistan (UNMOGIP), established a new United Nations India-Pakistan Observation Mission (UNIPOM), and appointed a personnel representative to meet with both parties and seek agreement on a plan and schedule for the withdrawals.

UNMOGIP and UNIPOM had to ensure that action agreed on 29 January 1966 was fully implemented and in the event of disagreement between the parties, the decision of UNMOGIP and UNIPOM would be final and binding on both sides. The withdrawal was to be completed by 25 February 1966.

On 31 January 1966 UNMOGIP and UNIPOM reported that the first phase of the first part of the disengagement and withdrawal plan had been completed in all sectors. The second phase (i.e. the removal of defence works) had been completed on 20 February 1966. On 26 February 1966, the Secretary General reported that the withdrawal of troops by India and Pakistan had been completed on schedule on 25 February 1966. The withdrawal provisions of the Security Council's resolution had been fulfilled by the two parties.

United Nations resolutions embed the principal concern in regard to the situation in Jammu and Kashmir and in addition address the question of 'equality of people' for the right of 'self-determination' and address the broad regime of their human rights. The formal consent of the People of Jammu and Kashmir occupies the main debate at the United Nations.

UN Security Council resolution of 21 April 1948 has addressed the two Governments of Pakistan and India in regard to the human rights of all State Subjects of Jammu and Kashmir. Government of Pakistan was charged with a duty to ensure that Tribesmen and Pakistani nationals not normally residents are withdrawn from the State and full freedom to all subjects of the State, regardless of creed, caste, or party, to express their views and to vote on the question of the accession of the State had to be assured. The third choice of a membership as an independent State at the UN contained in the Indian communication, has for some reason remained subdued during the debate. The deficit in the representation of the people of Kashmir has not been addressed either.

Government of India has accepted duties in the provisional accession of the State. In addition it had to "put into operation in consultation with the Commission a plan for withdrawing their own forces from Jammu and Kashmir and reducing them progressively to the minimum strength required for the support of the civil power in the maintenance of law and order.

UN Security Council resolution has addressed the Government of India on a further regime of human rights that it had to assure while "stationing the remaining forces". Government of India had to arrange in consultation with the Commission for the stationing of the remaining forces in accordance with the following three principles:

- (i) That the presence of troops should not afford any intimidation or appearance of intimidation to the inhabitants of the State,

- (ii) That as small a number as possible should be retained in forward areas,
- (iii) That any reserve of troops which may be included in the total strength should be located within their present base area.

United Nations remained pre-occupied with the formal free will of the people and charged the Government of India to "ensure that the Government of the State release all political prisoners and take all possible steps so that:

- (a) all citizens of the State who have left it on account of disturbances are invited, and are free, to return to their homes and to exercise their rights as such citizens
- (b) there is no victimization
- (c) minorities in all parts of the State are accorded adequate protection.

The Commission of the Security Council at the end of the Plebiscite had to certify to the Council whether the plebiscite has or has not been really free and impartial.

The non interest of the UN Security Council from November 1965-August 1996 into the investigated situation in Jammu and Kashmir and its lack of will to prosecute its programme to ascertain the formal consent of the people created a situation in which a militant movement was introduced into the Valley of Kashmir. India and Pakistan fought a proxy war against each other, making the civilians a casualty during the last 23 years.

Government of India erred as a leading democracy and could not keep to its terms of provisional accession (which is pending for ratification), nor could it follow the responsibilities apportioned to it under the UN Security Council resolutions.

Pakistan supported a militant movement and camouflaged it under its routine narrative of offering the people of Jammu and Kashmir a political, moral and diplomatic support. Government of Pakistan has not allowed the two administrations of Jammu and Kashmir on its side to function as required under UNCIP resolutions or as required by the judgements of superior courts of these administrations. It used the instrument of a proxy politics and every method including violence was brought to bear to obtain compliance. Use of violence by the parties has resulted in the loss of life of a generation.

United Nations which set out in January 1948 to enforce the "primary will" of the people of Jammu and Kashmir could have averted the death of a generation and could have saved the people from an unprecedented violation of human rights never witnessed from 1846. Indian soldier invested with a duty to defend the territories, protect lives, property and honour and referenced in the UN Security Council resolutions as a Peace Keeping force, to supplement law and order for the purposes of enforcing the UN mechanism in Kashmir, lost his calm and nerve. He could not honour the manner of behaviour, number and location stipulated in the UN Security Council resolutions.

Government of Pakistan could not replenish (to continue its proxy war) the numerical deficit caused by the death of a generation and by disappearances. The non interest of the world community in the politicised and compartmentalised narrative on the promotion and protection of human rights have disappointed the people in Jammu and Kashmir.

JKCHR Secretary General has just returned from a 5 week visit of Kashmir Valley. We would like to flag the following for the favourable attention of the Human Rights Council, NGOs and other distinguished delegates in attendance at the Session:

1. JKCHR has compiled a list of 1421 widows between the ages of 13 to 85 years (in one area alone). These widows have neither received any support nor could marry for religious reasons for 23 years.
2. Young women have been exposed to abject poverty during the 23 year armed conflict. The High Court has asked the Government to formulate schemes to rehabilitate a group of 37,3086 girls identified as poor and helpless.

3. Kashmir (Valley) has been hit by a number of disturbing sex scandals in the last 23 years. There is a risk that these helpless women may be sucked into prostitution and other vices.
4. The recent figures released by the State Government show that currently there are 22000 surrendered, 17000 released and 376 active militants in hinterland and 56 Nepal returns. According to the Economic Survey Report of 2013-14 tabled by the State government in Legislative Assembly the number of registered job seekers has increased from 106130 in 2008 to 307827 in 2013, registering an increase of 190% in unemployment.

An uncertain life under five Governments at Delhi, Islamabad, Srinagar, Muzaffarabad and Gilgit remains at the core of this hopelessness. India, Pakistan and the United Nations have to move in to assist State government to boost the traditional skills, utilize the untapped natural resources and natural environment, for environment friendly tourism industry.
